

CLEAN AIR ACT (CAA)7-6-A. Administrative Enforcement Actions: Issuance of Complaints and Orders, and Signing of Consent Agreements, Etc.1. AUTHORITY.

a. To make findings of violation, to issue notices of violation, to issue orders, to issue or withdraw complaints, to issue penalty orders, to issue administrative compliance orders, to give written notice of a proposed administrative penalty, and to issue field citations, except for new source review orders.

b. To negotiate and confer with the alleged violator pursuant to the Clean Air Act, as amended, (CAA).

c. To sign consent agreements memorializing settlements between the Agency and respondents, and to compromise or modify administrative penalties, except for new source review orders.

d. To make findings of violation, to issue orders, to issue penalty orders, and to compromise, modify or remit administrative penalties, except for new source review orders.

e. To determine jointly with the Attorney General in accordance with the CAA the circumstances under which a matter involving a larger penalty or longer period of violation is appropriate for administrative penalty action.

2. TO WHOM DELEGATED.

a. The authorities in 1.a., 1.b., and 1.c. are delegated to the Director, Air Protection Division (APD); Director, Land and Chemicals Division (LCD); Director, Hazardous Site Cleanup Division (HSCD) and the Director, Office of Enforcement, Compliance and Environmental Justice (OECEJ).

b. The authorities in 1.b. and 1.c. are delegated to the Regional Counsel.

c. The authorities in 1.d. are delegated to the Regional Judicial and Presiding Officer.

d. The authority in 1.e. is delegated to the Regional Counsel. The Regional Counsel may exercise this authority only after prior consultation with the appropriate delegatee in 2.a. above.

3. LIMITATIONS.

a. The delegates in paragraph 2.a. above may exercise the following authorities only after the prior concurrence of the Regional Counsel if the exercise of such authorities involves the proposed assessment of a civil penalty: to make findings of violation, to issue orders, to issue or withdraw complaints, to issue penalty orders, to give written notice of a proposed administrative penalty, and to issue field citations.

CLEAN AIR ACT (CAA)7-6-A. Administrative Enforcement Actions: Issuance of Complaints and Orders, and Signing of Consent Agreements, Etc. (Cont.)3. LIMITATIONS. (Cont.)

b. The delegates in paragraph 2.a. above may exercise the following authorities only after the prior concurrence of the Regional Counsel if the exercise of such authorities involves the issuance of an administrative compliance order: to make findings of violation, to issue orders, and to issue administrative compliance orders.

c. The delegates in paragraph 2.a. above must obtain the concurrence of the Regional Counsel prior to exercising the authorities in 1.b. and 1.c.

d. The Director OECEJ may exercise these authorities only in multi-media cases.

e. The Director OECEJ must consult with the APD, HSCD and LCD delegates before exercising these authorities.

f. The LCD delegatee may exercise these authorities only in asbestos NESHAP cases under 40 C.F.R. Part 61, Subpart M.

g. Once the alleged violator files an answer or fails to file an answer in the specified time period, the Regional Counsel or his/her designee will conduct all negotiations.

h. The delegates must submit copies of all administrative complaints, all signed consent agreements and all penalty justification documentation to the Assistant Administrator for Enforcement and Compliance Assurance within 20 days from their issuance or signing. The Assistant Administrator for Enforcement and Compliance Assurance or designee may issue guidance concerning headquarters oversight of the administrative penalty program.

i. The Assistant Administrator for Enforcement and Compliance Assurance may waive his consultation and concurrence requirements by memorandum.

j. The Assistant Administrator for Enforcement and Compliance Assurance must concur in any determination regarding the authority delegated under paragraph 1.e. The Deputy Administrator may, based on the recommendation of the Assistant Administrator for Enforcement and Compliance Assurance or designee, withdraw any authority delegated to the Regional Administrators or impose additional concurrence or consultation requirements on a case-by-case basis, based on a determination that a Region has failed to adequately follow or implement guidance and policies concerning the administrative penalty program.

CLEAN AIR ACT (CAA)7-6-A. Administrative Enforcement Actions: Issuance of Complaints and Orders, and Signing of Consent Agreements, Etc. (Cont.)

4. REDELEGATION AUTHORITY. These authorities may not be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 113(a), 113(d), 113(e) and 205(c) of the Clean Air Act.

b. Emergency administrative orders are covered by Delegation 7-49, "Emergency Administrative Powers".

c. Section 113(a)(5) new source review orders are covered by Delegation 7-37, "Administrative Enforcement Actions: New Source Review Orders".

d. The Agency official who signs the complaint should sign the consent agreement.

e. The Assistant Administrator for Enforcement and Compliance Assurance may exercise these authorities in multi-Regional cases, cases of national significance or nationally managed programs. The Assistant Administrator for Enforcement and Compliance Assurance or designee must notify any affected Regional Administrators or designees when exercising any of the above authorities except for issuing notices of violation, issuing complaints, issuing field citations and making findings of violation. In addition, once the alleged violator files an answer or fails to file an answer in the specified time period, the Assistant Administrator for Enforcement and Compliance Assurance or designee will conduct all negotiations.

6. SUPERSESSSION. Delegations Manual, CAA, Regional Delegation 7-6-A. Administrative Enforcement Actions: Issuance of Complaints and Orders, and Signing of Consent Agreements, Etc., 1200 TN RIII-127 (September 24, 1998).

Date 9/1/05

/s/ James W. Newsom for
Donald S. Welsh
Regional Administrator